



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/303,561	09/09/94	BEDNORZ	J Y0987074B

IM62/0708  
DANIEL P MORRIS  
IBM CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
P O BOX 218  
YORKTOWN HEIGHTS NY 10598

EXAMINER	
KOEPEC, M	
ART UNIT	PAPER NUMBER
1751	83

DATE MAILED:

07/08/99

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

☒ is extended to run 6 mos. from the date of the Final Rejection

☐ continues to run \_\_\_\_\_ from the date of the Final Rejection

☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 6/14/99, has been considered with the following affect, but it is not deemed to place the application in condition for allowance: (Paper #18)

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- ☐ They raise new issues that would require further consideration and/or search. (See Note).
- ☐ They raise the issue of new matter. (See Note).
- ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The amendment has overcome the 112, 2nd IP rejection over those claims except for the rejections directed to the terms "perovskite-like" and "aper-type". Also, the 112, 1st IP rejection of claims 134, 135, 137-142 is withdrawn (page 12 of Paper #66)

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing of an appeal, the proposed amendment ☒ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: 136

Claims objected to: \_\_\_\_\_

Claims rejected: 24-26, 86-90, 96-135, 137-142

However;

a. ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.

b. ☒ The rejection of claims US, 120, 123 (see note) on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

*Mark Kopec*

Mark Kopec  
Primary Examiner



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Patent and Trademark Office

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Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/303,561	09/09/94	BEDNORZ	J Y0987074BY

IM62/0708  
DANIEL P MORRIS  
IBM CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
P O BOX 218  
YORKTOWN HEIGHTS NY 10598

EXAMINER	
KOPEC, M	
ART UNIT	PAPER NUMBER
1751	848384

DATE MAILED:

07/08/99

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- ☒ is extended to run 6 mos from the date of the Final Rejection
- ☐ continues to run \_\_\_\_\_ from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 4/15/99, has been considered with the following affect, but it is not deemed to place the application in condition for allowance: (Paper # 79)

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing of an appeal, the proposed amendment ☒ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: 136

Claims objected to: \_\_\_\_\_

Claims rejected: 24-26, 86-90, 96-135, 137-163

However;

- a. ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
- b. ☐ The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection. SEE ATTACH.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

*Mark Kopec*

Mark Kopec  
Primary Examiner

Applicant's remarks appearing at page 13 of the response are noted. Specifically, the newly added claims do **not** add any new issues and therefore would **not** cause a withdrawal of the final rejection.

Upon appeal, claims **143-163** will be added to the **112, first paragraph, rejection** set forth at page 6 of Paper #66 (Final Rejection) and the **102(a) rejection** over Asahi Shinbum article set forth at pages 16-19 of Paper #66 (Final Rejection).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Kopec whose telephone number is (703) 308-1088. The examiner can normally be reached on Monday-Thursday from 7:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (703) 308-4708.

The official fax phone numbers for this Group are (703) 305-7718 and 305-3599 (for after-final submissions).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Mark Kopec  
July 7, 1999

  
Mark Kopec  
Primary Examiner



UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/303,561	09/09/94	BEDNORZ	J Y0987074BY

IM62/0708

DANIEL P MORRIS  
IBM CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
P O BOX 218  
YORKTOWN HEIGHTS NY 10598

EXAMINER	
KOPEC, M	
ART UNIT	PAPER NUMBER
1751	8685

DATE MAILED:

07/08/99

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

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- ☐ continues to run \_\_\_\_\_ from the date of the Final Rejection
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Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 6/24/99, has been considered with the following affect, but it is not deemed to place the application in condition for allowance: (Paper # 8182 + Paper # 82 originally filed 12/21/98)

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The terminology "layer-type" or "paravertebral-like" has been rejected under 35 USC 112, 2nd IP, since at least the Rejection mailed 8/26/92.  
The newly filed exhibits are considered untimely.

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be, entered and the status of the claims in this application would be as follows:
- Allowed claims: \_\_\_\_\_
- Claims objected to: \_\_\_\_\_
- Claims rejected: \_\_\_\_\_
- However;
- ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
  - ☐ The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.
4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.
5. ☒ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. SEE NOTE.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other

*Mark Kopec*

Mark Kopec  
Primary Examiner



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Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/303,561	09/09/94	REDNOR7	Y8987874BY

IM62/0708  
DANIEL P MORRIS  
IBM CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
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YORKTOWN HEIGHTS NY 10598

EXAMINER	
KOFEC M	
ART UNIT	PAPER NUMBER
1751	854
DATE MAILED:	

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

07/08/99

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- ☒ is extended to run 6 mos from the date of the Final Rejection
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☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 6/15/99, has been considered with the following affect, but it is not deemed to place the application in condition for allowance: (Paper # 80)

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing of an appeal, the proposed amendment ☒ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: 136

Claims objected to: \_\_\_\_\_

Claims rejected: 24-26, 86-90, 96-135, 137-177

However;

- a. ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
- b. ☐ The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection. SEE ACTION

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

- ☐ Other

Application/Control Number: 08/303,561

Page 2

Art Unit: 1751

(Paper #85)

Applicant's remarks appearing at page 5 of the response are noted. Specifically, the newly added claims do **not** add any new issues and therefore would **not** cause a withdrawal of the final rejection.

Upon appeal, claims **143-163** will be added to the **112, first paragraph, rejection** set forth at page 6 of Paper #66 (Final Rejection) and the **102(a) rejection** over Asahi Shinbum article set forth at pages 16-19 of Paper #66 (Final Rejection).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Kopec whose telephone number is (703) 308-1088. The examiner can normally be reached on Monday-Thursday from 7:30 AM - 6:00 PM.

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Mark Kopec  
July 7, 1999

  
Mark Kopec  
Primary Examiner